



TO: Chief Elected Officials
WIA Steering Committee

FROM: Craig E. Hartzer
Commissioner

DATE: March 23, 1999

SUBJ: DWD Communications Policy # 1998-48
State Parameters on Employment Testing

RE: Workforce Investment Act and Wagner-Peyser Funding

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Purpose

1. To ensure testing administered for purposes of employment screening and selection is consistent with the Uniform Guidelines on Employee Selection Procedures (41 CFR 60-3) and the Civil Rights Act of 1991.
2. To permit Department of Workforce Development (DWD) Program Directors authority to approve Specific Aptitude Test Battery (SATB) testing.
3. To permit DWD staff to engage in fee-for-service activity approved by the Workforce Investment Board and offered by the one-stop center.

Rescissions

DETS Communication 92-29, dated July 24, 1992.

Content

1. General Aptitude Test Battery (GATB)

- Validity Generalization Methodology (VG)

The VG methodology scores GATB tests according to the ethnic group of the applicant. Since this method violates the Civil Rights Act of 1991, GATB-VG can not be used in selection or referral to employment. VG scoring is, however, appropriate for counseling purposes, using the VG Manual, Section C: Counseling and Test Interpretation. GATB interpretation can only be provided by someone who has been trained to do so and has been approved by DWD for recording delivery of counseling into the Customer Self-Service System (CS3).

The vehicle for conveying VG results is the Vocational Assessment Report. It is to be given to the applicant only when it is used as part of providing counseling and test interpretation services to the applicant. The current scoring procedures for arriving at Job Family percentile ranking scores are in violation of the Civil Rights Act of 1991, if used for selection, referral, or hiring of individuals for jobs, training, or promotion. An employer using VG scores off a Vocational

Assessment Report supplied by the applicant would be in violation of law.

- Occupational Aptitude Patterns (OAP)

Occupational Aptitude Patterns are established for 66 groups of jobs. The OAP structure is patterned after the Work Groups arrangement of the Guide for Occupational Exploration. Inclusion of jobs within an OAP is primarily based on job analysis rather than actual validation studies; thus, GATB-OAP lacks criterion related validity and it can not be used in selection or placement. Such use would violate the Uniform Guidelines on Employee Selection Procedures (41 CFR 60-3). GATB-OAP is allowed for use in counseling as with GATB-VG.

For OAP, job seekers may be given the Counseling Work Sheet, but only in conjunction with counseling and a full test interpretation by a qualified employment counselor. Job seekers may not be allowed access to any other test materials. The counseled applicant is free to give the Counseling Work Sheet to an employer, although the employer would be violating the Uniform Guidelines if he/she used the OAP norms in selection. Fully 47 of the 66 OAPs demonstrate adverse impact on minorities and OAP passing scores lack criterion-related validity.

- SATB Methodology

In the SATB methodology, only a portion of the GATB is scored. **A valid SATB may be used for selection and referral.** However, the SATBs have not been updated since the early 1980s. In many cases they are no longer appropriate or useful. Out of the 400+ SATBs, there are only 200+ that can be used. The ones that can not be used are restricted because they have not been re-validated. The US Department of Labor does not intend to revalidate the SATBs. The number of jobs for which there are unrestricted and appropriate SATBs is very small. Most SATB testing is currently done for apprenticeships. Staff should exercise extreme caution in representing SATBs as a tool to employers in general because for the vast majority of jobs, a SATB can not be delivered. Staff representing the use of the SATB methodology must be familiar with the GATB Manual, Section IV and the availability of unrestricted SATBs; i.e., batteries that conform to current legal requirements.

SATBs may not be provided unless approved by the DWD Program Director for the area. If a SATB is used for any purpose other than apprenticeships, the Program Director is strongly urged to seek technical assistance from the administrative office. The following steps must be taken prior to approval:

- a. The employer must provide a detailed job description and the exact duties involved. The description should include:
 - End product of the job;
 - Materials utilized for the completion of the job;
 - Machines, tools, equipment, or work aids used in the job;
 - Knowledge required for acceptable job performance;

- b. A staff person, knowledgeable in both the use of the GATB and the employer's job, should compare the employer's job description with the job description found within each SATB technical report to determine if a majority of the job duties are comparable.
- c. The DWD Program Director will determine whether resources are sufficient to meet the demand for SATB testing. Regardless of resources, SATBs must be provided for apprenticeship programs upon request. The apprenticeship must be registered with the Bureau of Apprenticeship and Training (BAT). Selection of candidates will normally be under the jurisdiction of a Joint Apprenticeship Committee. BAT strongly encourages the Committees to use SATBs because an appropriate SATB meets all legal requirements for being a legitimate selection criterion, whereas other selection instruments seldom do.

- Test Security

Local office staff are not to distribute GATB test booklets and materials to any other organizations or person not trained in use of the GATB. Test materials may not be released to employers, unions, or individuals under any circumstances. Employers may be allowed to inspect test materials, observe test sessions, and even take the test themselves, but they can not be allowed to obtain copies of actual test items, administration manuals, scoring devices, conversion tables, or other materials. Employers may not be given GATB test results for any applicant or employee who may have been tested for counseling purposes.

2. Work Keys

The Work Keys system from American College Testing (ACT) **may be used for selection and referral**. Work Keys includes a job profiling component, assessment, and replication component (replication is a repetition of the profiling process for the same job at the same site, using additional subject matter experts (employers and supervisors). Replications are required if the resulting profile is to be used for employee selection or other high stakes purposes. Service centers must be licensed, and job profilers and assessors must be trained by ACT. Because of the rigor with which the instrument was developed and quality is controlled, Work Keys is an acceptable selection tool.

DWD is funding only one licensed site at this time in Evansville in partnership with the Workforce Investment Board. The intent is that the service will quickly become self-supporting through fee-for-service. The Workforce Investment Act, section 135(e) permits one-stop centers to provide customized employment-related services to employers on a fee-for-service basis. Workforce Investment Boards in other areas of the state may elect to purchase their own license agreement and pay for staff training. DWD

staff may become part of that service center agreement if Wagner-Peyser resources are sufficient to cover the cost of the staff persons' training and equipment. Because there is an annual renewal cost for profilers, DWD will be supportive where the intent is for the Work Keys Service Center to become self-supporting through fees, and the fees received are appropriately distributed across the contributing funding sources. DWD staff that want to engage in this or other fee-for-service activity approved by the Workforce Investment Board should discuss the arrangement in advance with the Deputy Commissioner for Field Operations/Program Development.

3. Certificates of Technical Achievement

Certificates of Technical Achievement (CTAs) **may be used for selection and referral** provided all the components of task analysis, assessment, and replication (validation) have been done for the specific job for which the individual is being referred. If the CTA hasn't been validated for the specific job, but only generally for the occupation, the CTA may not be used as a basis for deselection or priority of referral if the applicant meets all other employer requirements. Applicants, however, "own" their assessment results (i.e., the certificate) and are free to share those with employers as they see fit. Job task analysts and assessors must be trained by the Department of Workforce Development, or entities that provide training under contract with DWD. Task analysis, assessment, and replication may be provided on a fee-for-service basis.

4. Other Tests

Employers often ask staff to administer tests that have been selected by the employer. Many times those tests were developed for purposes other than employee selection (e.g., counseling) and thus they are inappropriate for any other use. Administering tests which were not developed for selection purposes, or which have not been validated or used in conjunction with a task analysis or job profile, may be indefensible if challenged. Administering tests which may have adverse impact on protected groups (i.e., test performance differentials between members of a protected group and comparable individuals in the general population) without conclusive validation studies, may place DWD in a legally vulnerable position.

Most tests will demonstrate adverse impact if tests are used in the selection process. Few tests have the necessary objective evidence of validity to be used as a selection factor in decisions regarding employment. Employer-supplied tests may be in violation of the Uniform Guidelines on Employee Selection Procedures.

Workforce Investment Boards and one-stop operators and staff may not use federal funds to administer screening tests for selection and referral to employers other than those approved above. They may elect to use other funds for this purpose at their own risk. It is recommended that if other testing is provided, the local entities:

- Obtain a signed statement of release of liability from the employer OR
- Ensure that the test has been properly developed and validated in accordance with the Uniform Guidelines on Employee Selection Procedures and that documentation of validation is maintained AND
- Ensure applicant flow is tracked consistent with the regulations to ensure adverse impact does not occur as a result of the testing process.

Local entities should be aware that even the existence of a release statement may not fully relieve them of all liability in the event of future successful legal challenges regarding the fairness or applicability of the tests.

Effective Date

April 1, 1999

Ending Date

June 30, 2004, or until rescinded, whichever comes first.

Action

Share with appropriate staff. Follow the policy in all situations dealing with testing for purposes of referral and selection. Address questions to Nina Babich at 317-232-7381.

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